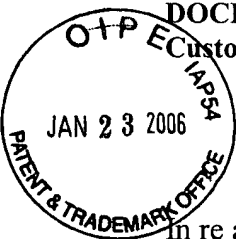


DOCKET NO. 01-S-017 (STMI01-00017)

PATENT

Customer No. 30425



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Semir S. Haddad

Serial No.: 09/943,815

Filed: August 31, 2001

For: APPARATUS AND METHOD FOR INDEXING MPEG
VIDEO DATA TO PERFORM SPECIAL MODE
PLAYBACK IN A DIGITAL VIDEO RECORDER AND
INDEXED SIGNAL ASSOCIATED THEREWITH

Group No.: 2665

Examiner: Cynthia L. Davis

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Applicants herewith respectfully submit that the Examiner's decision of August 24, 2005, finally rejecting Claims 1-24 in the present application, should be reversed, in view of the following arguments and authorities. This Brief is submitted on behalf of Appellant for the application identified above. A check is enclosed for the fee for filing a Brief on Appeal. Please charge any additional necessary fees to Deposit Account No. 50-0208.

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TABLE OF AUTHORITIES

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<i>Graham v. John Deere Co.</i> , 383 U.S. 1, 148 U.S.P.Q. 459 (1966).	7
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<i>Uniroyal, Inc. v. Rudkin-Wiley Corp.</i> , 5 U.S.P.Q.2d 1434 (Fed.Cir. 1988).	7, 25

Real Party in Interest

The real party in interest, and assignee of this case, is STMicroelectronics, Inc.

Related Appeals or Interferences

To the best knowledge and belief of the undersigned attorney, there are none.

Status of Claims

Claims 1-24 are under final rejection, and are each appealed.

Status of Amendments after Final

The amendments to the claims made after final rejection have been entered, and are reflected in the Claims Appendix (Appendix A).

SUMMARY OF CLAIMED SUBJECT MATTER

The following summary refers to disclosed embodiments and their advantages, but does not delimit any of the claimed inventions.

In General

The present application is directed, in general, to an apparatus for implementing special mode playback operations in a digital video recorder (650), as shown in Figure 7, below.

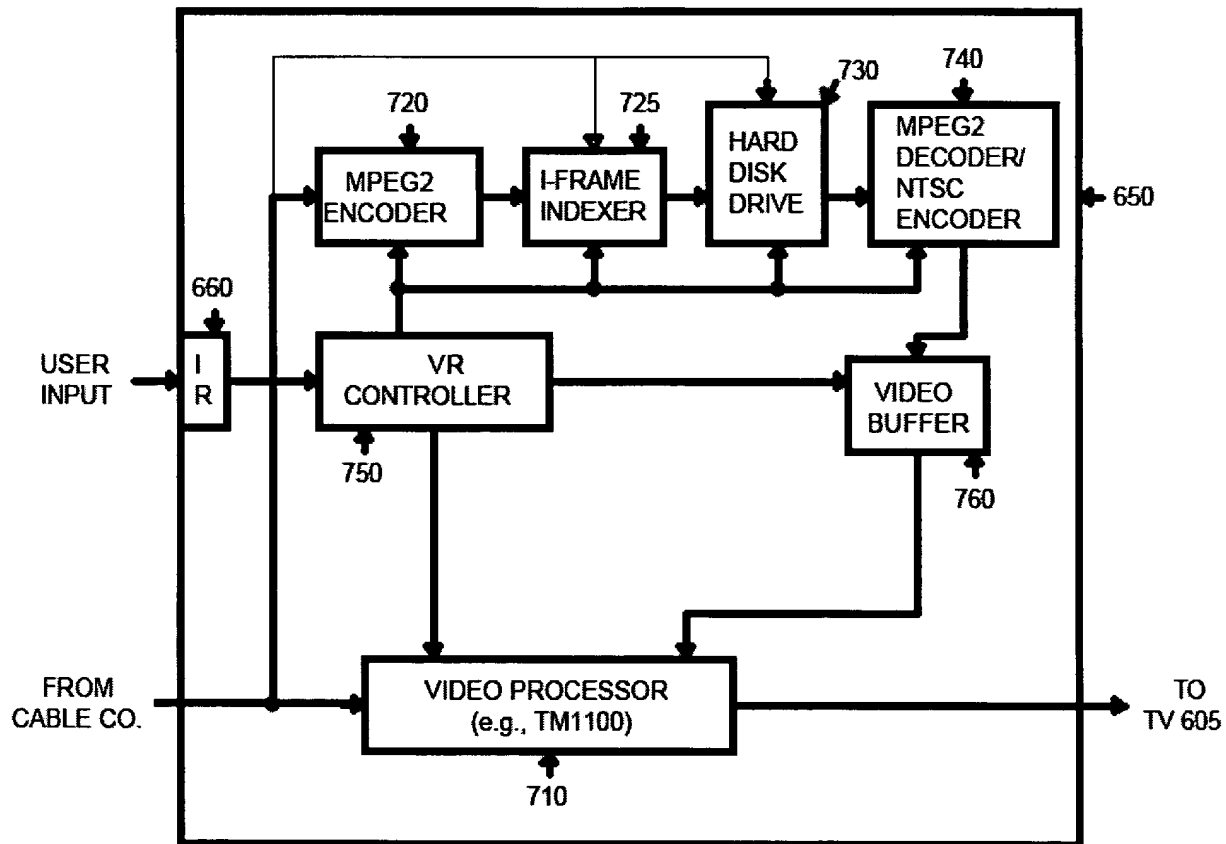


FIGURE 7

The apparatus comprises an Intra frame indexing device (725) capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames (1000), as depicted in Figure 10, below.

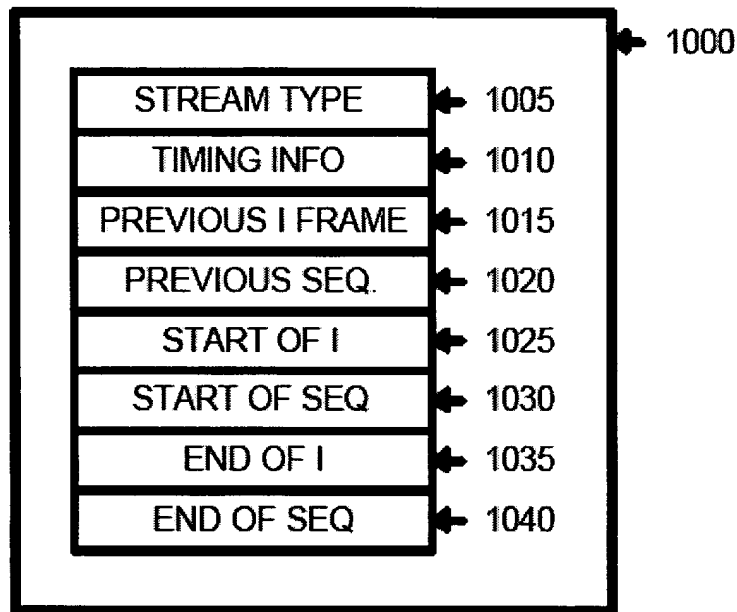


FIGURE 10

The Intra frame indexing device, in some embodiments, modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame.

Support for Independent Claims

Note that, per 37 CFR §41.37, only each of the independent claims are discussed in this section. In the arguments below, however, the dependent claims are also discussed and distinguished from the prior art. The discussion of the claims is for illustrative purposes, and is not intended to effect the scope of the claims.

Independent Claim 1 describes an apparatus for implementing special mode playback operations in a digital video recorder (650), the apparatus comprising an Intra frame indexing device capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames (1000), wherein said Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame. *Page 18, lines 11-19, and Figures 7 and 10.*

Independent Claim 7 describes a digital video recorder (650) capable of playing back a recorded television program. The digital video recorder has a video processor capable of receiving an incoming television program and converting said incoming television program to a baseband video signal capable of being displayed on a television set coupled to said digital video recorder and a storage disk capable of storing said incoming television program. The digital video recorder also has an apparatus for implementing special mode playback operations, the apparatus comprising an Intra frame indexing device capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames (1000), wherein said Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address on said storage disk of a second data packet associated with a second Intra frame. *Page 18, lines 11-19, and Figures 7 and 10.*

Independent Claim 13 describes a method of indexing Intra frames in an MPEG video stream to enable special mode playback operations in a digital video recorder (650). The method includes

the steps of receiving the MPEG video stream, identifying in the received MPEG video stream data packets associated with Intra frames (1000), and modifying header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame. *Page 18, lines 11-19, page 33, line 16 - page 34, line 4, and Figures 7 and 10.*

Independent Claim 19 describes a recorded video product embodied in a computer readable storage medium (730). The recorded video product has a plurality of data packets stored on the computer readable storage medium. The plurality of data packets have a first data packet associated with a first Intra frame (1000), wherein the first data packet has a packet header including location information identifying a location in the plurality of data packets of a second data packet associated with a second Intra frame. *Page 19, lines 14 - Page 20, line 1, and Figure 7.*

Grounds of Rejection to be Reviewed on Appeal

1. Are Claims 1-24 obvious over U.S. Patent No. 5,734,862 to Kulas (hereafter "Kulas") in view of U.S. Patent No. 6,438,319 to Inoue et al. (hereafter "Inoue")?

ARGUMENT

Stated Grounds of Rejection

The rejections outstanding against the Claims are as follows:

In Section 3 of the August 24, 2005 Office Action, Claims 1-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,734,862 to Kulas (hereafter "Kulas") in view of U.S. Patent No. 6,438,319 to Inoue et al. (hereafter "Inoue").

In Section 2 of the August 24, 2005 Office Action, Claims 19-24 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. These rejections were withdrawn in the Advisory Action after an amendment to the claims. These rejections are therefore not argued herein.

Legal Standards

The legal standards for an obviousness¹ rejection are referenced in the footnote below.

Analysis of Examiner's Rejection

The cited references are each briefly discussed in relevant part, and then the rejection of each claim is addressed separately under each ground of rejection.

Kulas, the primary reference used in the final Office Action, is drawn to a system for eliminating access time in CD-ROM based interactive video applications, by selectively buffering and displaying relevant frames from interleaving frames associated with respective stored animation sequences in response to user selection. While Kulas shares some structural similarities with the

¹The Supreme Court has explained how to apply §103:

Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or non-obviousness of the subject matter is determined.

Graham v. John Deere Co., 383 U.S. 1, 148 U.S.P.Q. 459, 467 (1966).

Obviousness cannot be inferred from a combination of references without a showing that one of ordinary skill would have been motivated to combine those references:

When prior art references require selective combination ... to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself.... Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination.

Uniroyal, Inc. v. Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434, 1438 (Fed.Cir. 1988), *quoting Interconnect Planning Corp. v. Feil*, 227 U.S.P.Q. 543 (Fed.Cir. 1985), and *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick*, 221 U.S.P.Q. 481 (Fed.Cir. 1984).

instant application, it does not include several claimed elements and functions, as described in detail below, and as conceded by Examiner Davis.

Inoue is drawn to a digital video recorder or player performing error correction coding and decoding in a two separate or paged memories. Inoue does address some issues similar to those of the present application, but not in the manner contemplated by the claims, as described in detail below.

Ground of Rejection 1: Claims 1-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,734,862 to Kulas (hereafter "Kulas") in view of U.S. Patent No. 6,438,319 to Inoue et al. (hereafter "Inoue").

Claim 1

Claim 1 requires “an Intra frame indexing device capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames, wherein said Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame.”

Examiner Davis’s rejection relies on a misinterpretation of the references. For example, Examiner Davis asserts, erroneously, that “an Intra frame indexing device capable of identifying therein data packets associated with Intra frames is disclosed Kulas, column 16, lines 25-27....” This passage of Kulas reads in its entirety:

Fortunately, the MPEG codec scheme provides that intra-frame compression occurs quite regularly and relatively frequently compared to human response times.

As can be plainly seen, while this passage mention “intra-frame compression,” it clearly does not teach what Examiner Davis has states.

Further, Examiner Davis then states that a “first data packet associated with a first Intra frame including location information identifying a storage address of second [*sic*] data packet associated with a second Intra frame is disclosed in Kulas, column 13, lines 17-19....” This passage reads in its entirety:

Refinements on this approach, such as by using back pointers between slots in the list to create a "doubly" linked list, and "tail pointers" to show the end of a list may be used.

Clearly, this passage also fails to teach what Examiner Davis states.

This portion of Kulas describes a buffer that contains slots, where each slot is capable of storing "a frame of data along with any associated information." (Kulas, Col. 12, Line 59 - Col. 13, Line 1). Kulas then specifically recites that each slot in a "linked list of slots" includes a "pointer to the next slot in the list." (Kulas, Col. 13, Lines 13-16). As such, Kulas simply recites that each slot in a buffer includes a pointer to another slot in the buffer.

Kulas lacks any mention at all of a "first data packet" that identifies the storage address of a "second data packet" as recited in Claim 1. In particular, Kulas does not teach, suggest, or even mention a "first data packet" that includes "header information," where the header information includes "location information identifying a storage address of a second data packet" as recited in Claim 1. In fact, Kulas does not even refer to a packet at all anywhere in the disclosure.

Examiner Davis ignores the plain requirements of the claims regarding packet locations and contents by referencing a 2004 dictionary definition and asserting that "the slots of Kulas are equivalent to packets". While a 2004 dictionary is no showing of the understanding of one of skill in the art in 2001, when the present application is filed, it should be noted that even in this case, the Examiner does not apply the reference correctly. Examiner Davis did not quote all of the definition of the term "packet" as set forth in her 2004 dictionary definition. The full definition reads: “1. Generic term for a bundle of data, usually in binary form, organized in a specific way for transmission.” (Emphasis added). The term "packet" does not generally refer to any "bundle of

data", even by the Examiner's cherry-picked definition, but refers rather to a "bundle of data" that is organized in a specific way for transmission. The term "packet" has a definite and accepted meaning in the telecommunications industry.

As noted above, the cited portion of Kulas describes a buffer that contains slots, where each slot is capable of storing "a frame of data along with any associated information." Even the Examiner's chosen definition of the term "packet" (data organized in a specific way for transmission) makes it clear that the term "packet" is not equivalent to a slot in a buffer as described by Kulas.

Moreover, Claim 1 recites that the "first data packet" is associated with a "first Intra frame" and that the "second data packet" is associated with a "second Intra frame." The Office Action fails to establish that the "frame" in one slot of the buffer of Kulas points to another "frame" in another slot of the buffer, where both "frames" are "Intra frames." Examiner Davis fails to make this showing since Kulas lacks any such teaching.

Kulas's buffer stores consecutive frames from a "data path." (Kulas, Col. 13, Lines 26-65).

Kulas states:

Routine 240 of FIG. 11 is entered at step 242. Routine 240 is called often enough to obtain each frame from the data path without missing frames as they are read off of the CD-ROM disc at a more or less constant rate." (Emphasis added) (Kulas, Col. 13, Lines 26-29).

This shows that the Kulas device stores consecutive frames without missing any frames.

Examiner Davis also asserted that "The frequency of Intra Frames cited by applicant in Kulas, column 16, lines 28-21, is dependent on the coding rate of the video (Kulas, column 16, lines 25-29), and intra frames may occur more frequently, or be consecutive, at a slower coding rate." The Examiner's assertion that a slower coding rate will cause the intra frames to be consecutive is not supported in Kulas. Because the Kulas system records all consecutive frames (i.e., does not miss any frames), a slower coding rate will not affect the identity of the intra frames. The intra frames will be consecutive only if they were consecutive to begin with.

Kulas also expressly states that intra frames generally represent "one of every 12 frames in a sequence." (Kulas, Col. 16, Lines 28-31). Accordingly, Examiner Davis cannot establish that two consecutive frames in the buffer of Kulas are "Intra frames," where a "first data packet" associated with the "first Intra frame" includes location information identifying the storage address of a "second data packet" associated with a "second Intra frame" as recited in Claim 1.

As the numerous features of claim 1 described above are not taught or suggested by Kulas, the rejections should be reversed, and this claim and all its dependent claims should be allowed over the art of record.

Examiner Davis does concede that Kulas does not teach or suggest an Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame, as required by Claim 1. Examiner Davis then asserts that Inoue discloses these elements of Claim 1 and that it would be obvious to combine Kulas and Inoue.

Examiner Davis cites Col. 5, Lines 43-48 of Inoue as disclosing these elements. This passage of Inoue reads in its entirety:

Alternatively, if the copyright field 134 indicates that the contents of the associated packet 128 are only to be duplicated once, copyright control circuit 121 will modify the contents of the copyright field 134 such that the copyright field indicates that there is to be no further copying of the contents of the packet 128.

As can be readily seen, this portion of Inoue contains absolutely no mention of modifying the header of a data packet to include "location information" identifying the "storage location" of another packet as recited in Claim 1.

Further, even if all limitations of independent Claim 1 were taught by Kulas, Inoue, or some combination of these, there is no proper motivation to combine these references, as addressed in more detail below.

Therefore, Examiner Davis's final Office Action fails to establish that the proposed Kulas-Inoue combination discloses, teaches, or suggests all elements of Claim 1. The rejection of this claim, and all its dependent claims, should be reversed, and these claims should be allowed over all art of record.

Claim 2

Claim 2 requires, among other limitations, that the "second Intra frame chronologically precedes said first Intra frame".

As Claim 2 depends from Claim 1, the arguments above with regard to Claim 1 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 3

Claim 3 requires, among other limitations, that the "second Intra frame chronologically follows said first Intra frame".

As Claim 3 depends from Claim 1, the arguments above with regard to Claim 1 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 4

Claim 4 requires, among other limitations, that the "location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame."

As Claim 4 depends from Claim 1, the arguments above with regard to Claim 1 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests sequence information as a part of the location information, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 5

Claim 5 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.”

As Claim 5 depends from claim 4, the arguments above with regard to Claims 1 and 4 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 6

Claim 7 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.”

As Claim 7 depends from Claim 4, the arguments above with regard to Claims 1 and 4 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 7

Independent Claim 7 requires, among other limitations, “an apparatus for implementing special mode playback operations, the apparatus comprising an Intra frame indexing device capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames, wherein said Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address on said storage disk of a second data packet associated with a second Intra frame.”

Claim 7 includes features similar to those of Claim 1, and so the arguments above with regard to Claim 1 apply here as well, and are incorporated herein by reference.

As noted above, Kulas lacks any mention at all of a "first data packet" that identifies the storage address of a "second data packet" as recited in Claim 7. In particular, Kulas does not teach, suggest, or even mention a "first data packet" that includes "header information," where the header information includes "location information identifying a storage address of a second data packet" as recited in Claim 7. In fact, Kulas does not even refer to a packet at all anywhere in the disclosure.

Moreover, Claim 7 recites that the "first data packet" is associated with a "first Intra frame" and that the "second data packet" is associated with a "second Intra frame." The Office Action fails to establish that the "frame" in one slot of the buffer of Kulas points to another "frame" in another slot of the buffer, where both "frames" are "Intra frames." Examiner Davis fails to make this showing since Kulas lacks any such teaching.

As the numerous features of claim 7 described above are not taught or suggested by Kulas, the rejections should be reversed, and this claim and all its dependent claims should be allowed over the art of record.

Examiner Davis does concede that Kulas does not teach or suggest an Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame, as required by Claim 7. Examiner Davis also concedes that Kulas does not teach or

suggest “a video processor capable of receiving an incoming television program and converting said incoming television program to a baseband video signal capable of being displayed on a television set coupled to said digital video recorder; [and] a storage disk capable of storing said incoming television program”, also required by Claim 7. Examiner Davis then asserts that Inoue discloses these elements of Claim 7 and that it would be obvious to combine Kulas and Inoue.

As noted above, Examiner Davis cites Col. 5, Lines 43-48 of Inoue as disclosing the elements related to modification of header information. This passage of Inoue reads in its entirety:

Alternatively, if the copyright field 134 indicates that the contents of the associated packet 128 are only to be duplicated once, copyright control circuit 121 will modify the contents of the copyright field 134 such that the copyright field indicates that there is to be no further copying of the contents of the packet 128.

As can be readily seen, this portion of Inoue contains absolutely no mention of modifying the header of a data packet to include "location information" identifying the "storage location" of another packet as recited in Claim 7.

Inoue does indeed generally disclose a digital video recorder having a storage disk.

Further, even if all limitations of independent Claim 7 were taught by Kulas, Inoue, or some combination of these, there is no proper motivation to combine these references, as addressed in more detail below.

Therefore, Examiner Davis’s final Office Action fails to establish that the proposed Kulas-Inoue combination discloses, teaches, or suggests all elements of Claim 7. The rejection of this claim, and all its dependent claims, should be reversed, and these claims should be allowed over all art of record.

Claim 8

Claim 8 requires, among other limitations, that the “second Intra frame chronologically precedes said first Intra frame”.

As Claim 8 depends from Claim 7, the arguments above with regard to Claim 7 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 9

Claim 9 requires, among other limitations, that the “second Intra frame chronologically follows said first Intra frame”.

As Claim 9 depends from Claim 7, the arguments above with regard to Claim 7 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 10

Claim 10 requires, among other limitations, that the “location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.”

As Claim 10 depends from Claim 7, the arguments above with regard to Claim 7 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests sequence information as a part of the location information, particularly in the context of the frames and packets

recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 11

Claim 11 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.”

As Claim 11 depends from claim 10, the arguments above with regard to Claims 7 and 10 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 12

Claim 12 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.”

As Claim 12 depends from Claim 10, the arguments above with regard to Claims 7 and 10 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 13

Independent Claim 13 requires, among other limitations, “modifying header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame.”

Claim 13 includes features similar to those of Claim 1, and so the arguments above with regard to Claim 1 apply here as well, and are incorporated herein by reference.

As noted above, Kulas lacks any mention at all of a "first data packet" that identifies the storage address of a "second data packet" as recited in Claim 13. In particular, Kulas does not teach, suggest, or even mention a "first data packet" that includes "header information," where the header information includes "location information identifying a storage address of a second data packet" as recited in Claim 13. In fact, Kulas does not even refer to a packet at all anywhere in the disclosure.

Moreover, Claim 13 recites that the "first data packet" is associated with a "first Intra frame" and that the "second data packet" is associated with a "second Intra frame." The Office Action fails to establish that the "frame" in one slot of the buffer of Kulas points to another "frame" in another slot of the buffer, where both "frames" are "Intra frames." Examiner Davis fails to make this showing since Kulas lacks any such teaching.

As the numerous features of claim 13 described above are not taught or suggested by Kulas, the rejections should be reversed, and this claim and all its dependent claims should be allowed over the art of record.

Examiner Davis does concede that Kulas does not teach or suggest modifying header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame, as required by Claim 13. Examiner Davis then asserts that Inoue discloses these elements of Claim 13 and that it would be obvious to combine Kulas and Inoue.

As noted above, Examiner Davis cites Col. 5, Lines 43-48 of Inoue as disclosing the elements related to modification of header information. This passage of Inoue reads in its entirety:

Alternatively, if the copyright field 134 indicates that the contents of the associated packet 128 are only to be duplicated once, copyright control circuit 121 will modify the contents of the copyright field 134 such that the copyright field indicates that there is to be no further copying of the contents of the packet 128.

As can be readily seen, this portion of Inoue contains absolutely no mention of modifying the header of a data packet to include "location information" identifying the "storage location" of another packet as recited in Claim 13.

Further, even if all limitations of independent Claim 13 were taught by Kulas, Inoue, or some combination of these, there is no proper motivation to combine these references, as addressed in more detail below.

Therefore, Examiner Davis's final Office Action fails to establish that the proposed Kulas-Inoue combination discloses, teaches, or suggests all elements of Claim 13. The rejection of this claim, and all its dependent claims, should be reversed, and these claims should be allowed over all art of record.

Claim 14

Claim 14 requires, among other limitations, that the "second Intra frame chronologically precedes said first Intra frame".

As Claim 14 depends from Claim 13, the arguments above with regard to Claim 13 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 15

Claim 15 requires, among other limitations, that the "second Intra frame chronologically follows said first Intra frame".

As Claim 15 depends from Claim 13, the arguments above with regard to Claim 13 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 16

Claim 16 requires, among other limitations, that the “location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.”

As Claim 16 depends from Claim 13, the arguments above with regard to Claim 13 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests sequence information as a part of the location information, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 17

Claim 17 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.”

As Claim 17 depends from claim 16, the arguments above with regard to Claims 13 and 16 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 18

Claim 18 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.”

As Claim 18 depends from Claim 16, the arguments above with regard to Claims 13 and 16 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 19

Independent Claim 19 requires, among other limitations, “a plurality of data packets stored on said computer readable storage medium, said plurality of data packets comprising a first data packet associated with a first Intra frame, wherein said first data packet comprises a packet header comprising location information identifying a location in the plurality of data packets of a second data packet associated with a second Intra frame.”

Claim 19 includes features similar to those of Claim 1, and so the arguments above with regard to Claim 1 apply here as well, and are incorporated herein by reference.

As noted above, Kulas lacks any mention at all of a "first data packet" that identifies the storage address of a "second data packet" as recited in Claim 19. In particular, Kulas does not teach, suggest, or even mention a "first data packet" that includes header information, where the header information includes "location information identifying a location in the plurality of data packets of a second data packet " as recited in Claim 19. In fact, Kulas does not even refer to a packet at all anywhere in the disclosure.

Moreover, Claim 19 recites that the "first data packet" is associated with a "first Intra frame" and that the "second data packet" is associated with a "second Intra frame." The Office Action fails to establish that the "frame" in one slot of the buffer of Kulas points to another "frame" in another

slot of the buffer, where both "frames" are "Intra frames." Examiner Davis fails to make this showing since Kulas lacks any such teaching.

As the numerous features of claim 19 described above are not taught or suggested by Kulas, the rejections should be reversed, and this claim and all its dependent claims should be allowed over the art of record.

Examiner Davis does concede that Kulas does not teach or suggest a packet header comprising location information, as required by Claim 19. Examiner Davis then makes the unsupported statement that it "would have been obvious to one skilled in the art at the time of the invention to store the location information in the packet header. The motivation would be to have a place to put the location information that would not interfere with the video payload of the packet." As Kulas does not teach anything regarding packets or packet headers, this modification is unsupported and unmotivated.

Therefore, Examiner Davis's final Office Action fails to establish that the proposed Kulas-Inoue combination discloses, teaches, or suggests all elements of Claim 19. The rejection of this claim, and all its dependent claims, should be reversed, and these claims should be allowed over all art of record.

Claim 20

Claim 20 requires, among other limitations, that the "second Intra frame chronologically precedes said first Intra frame".

As Claim 20 depends from Claim 19, the arguments above with regard to Claim 19 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 21

Claim 21 requires, among other limitations, that the “second Intra frame chronologically follows said first Intra frame”.

As Claim 21 depends from Claim 19, the arguments above with regard to Claim 19 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this particular ordering of Intra frames, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 22

Claim 22 requires, among other limitations, that the “location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.”

As Claim 22 depends from Claim 19, the arguments above with regard to Claim 19 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests sequence information as a part of the location information, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 23

Claim 19 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.”

As Claim 23 depends from claim 22, the arguments above with regard to Claims 19 and 22 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Claim 24

Claim 24 requires, among other limitations, that the “video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.”

As Claim 24 depends from Claim 22, the arguments above with regard to Claims 19 and 22 apply here as well, and are incorporated herein by reference.

Nothing in Kulas, Inoue, or any combination of them teaches or suggests this ordering of video frame sequences, particularly in the context of the frames and packets recited in the parent claim. The rejection of this claim should be reversed, and it should be allowed over all art of record.

Therefore, all Claims should be allowed over the combination of Kulas and Inoue, and Examiner Davis’s obviousness rejections should be reversed.

Motivation to Combine or Modify²

Examiner Davis makes a variety of statements as alleged “motivations” to combine the Kulas and Inoue references, but these “motivations” are not taught or suggested by the art of record.

In her rejection of Claims 1, 7, and 13, Examiner Davis alleges that it would be obvious “to use the indexing and storage method of Kulas in the DVR device of Innoue [*sic*], and to put the location information in the header. The motivation would be to reduce access time to the stored media (see the abstract of Kulas) and to put the location information in a place in the packet that will not interfere with its video payload.”

Kulas is concerned with eliminating access time in CD-ROM based interactive video applications. Inoue is concerned with error correction using pages memories in a digital video recorder. Nothing in Inoue in any way suggests that access times are an issue in a DVR, but more importantly, nothing in Kulas or Inoue teaches or suggests that the techniques Kulas employs for an interactive system would be advantageous or even operable in a digital video recorder.

²Where an obviousness rejection is based on a combination of references, the Examiner must show that one of ordinary skill would have been motivated to combine those references. See *In re Nilssen*, 7 USPQ2d 1500 (Fed.Cir. 1988); *Panduit Corp. v. Dennison Mfg. Co.*, 1 USPQ2d 1593, 1597 (Fed.Cir. 1987); *ACS Hospital Systems v. Montefiore Hospital*, 220 USPQ 929 (Fed.Cir. 1984).

"When prior art references require selective combination ... to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself.... Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination." *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 5 USPQ2d 1434, 1438 (Fed.Cir. 1988), quoting *Interconnect Planning Corp. v. Feil*, 227 USPQ 543 (Fed.Cir. 1985), and *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick*, 221 USPQ 481 (Fed.Cir. 1984).

"While [*a reference*] may be capable of being modified to run the way [*the applicant's*] apparatus is Claimed, there must be a suggestion or motivation in the reference to do so. See *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification."). *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed.Cir. 1990).

Further, nothing in Kulas or Inoue indicates that the “location information” (to the extent any such is taught by Kulas) would be useful or operable in Inoue’s system. Inoue describes that “As time elapses, data continues to be written and read in sequential locations in memory 156” (col. 9 lines 53-55), and the only specific embodiment described has data is being read from a digital video tape col. 3, line 14-16), and nothing in Inoue suggests that the data includes frames that are not sequential. It is assumed that the reason Inoue does not describe that the packet headers contain any location information (col. 4, lines 59-67) is simply because such information is neither necessary nor advantageous.

As such, nothing in Kulas or Inoue supports the “motivation” invented by Examiner Davis, and nothing in the cited art suggests that such a combination would even be operable.

In the rejection of Claim 19, Examiner Davis does not reference Inoue at all, and simply states that it “would have been obvious to one skilled in the art at the time of the invention to store the location information in the packet header. The motivation would be to have a place to put the location information that would not interfere with the video payload of the packet.” As Kulas does not teach anything regarding packets or packet headers, this modification is unsupported and unmotivated.

Finally, in her response to previous arguments, Examiner Davis states “Kulas discloses storing location information, while Inoue discloses modifying headers, so the combination of the two renders the claims obvious.” Here, Examiner Davis does not even bother to suggest a motivation for making such a combination, and simply makes a conclusory “obviousness” statements. Of course, since the art of record does not teach the limitations of the claims alone or in combination, as described in detail above, the combination still fails.

Accordingly, the references used by Examiner Davis in every one of the present rejections cannot be properly combined, as there is no motivation in the art to do so, and the combinations, if made, would appear to be inoperable.

Grouping of Claims


The claims on appeal do not stand or fall together, as may be seen from the arguments set forth below. Each claim has been argued separately under a separate subheading, and each claim should be considered separately. While the applicant recognizes that a formal statement regarding the grouping of claims is no longer required, each claim should be considered separately; or at the very least each claim which is argued separately in the preceding sections of this brief should be considered separately. Argument: The fact that the claims use different formulations (as detailed above) and/or have been argued separately, shows that, if their patentability is not considered separately, any adverse decision would show that the limitations of some claims had been unfairly ignored.

REQUESTED RELIEF

The Board is respectfully requested to reverse the outstanding rejections and return this application to the Examiner for allowance.

Respectfully submitted,
DAVIS MUNCK, P.C.

Date: Jan. 20, 2006



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DOCKET NO. 01-S-017 (STMI01-00017)

PATENT

Customer No. 30425

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Hezi Friedman *et al.*

Serial No.:

09/862,986

Filed:

May 22, 2001

For:

SECURE UNIVERSAL SERIAL BUS

Group No.:

2132

Examiner:

Kambiz Zand

APPENDIX A -

Claims Appendix

1. (Original) An apparatus for implementing special mode playback operations in a digital video recorder, the apparatus comprising:

an Intra frame indexing device capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames, wherein said Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame.

2. (Original) The apparatus as set forth in Claim 1 wherein said second Intra frame chronologically precedes said first Intra frame.

3. (Original) The apparatus as set forth in Claim 1 wherein said second Intra frame chronologically follows said first Intra frame.

4. (Original) The apparatus as set forth in Claim 1 wherein said location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.

5. (Original) The apparatus as set forth in Claim 4 wherein said video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.

6. (Previously Presented) The apparatus as set forth in Claim 4 wherein said video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.

7. (Original) A digital video recorder capable of playing back a recorded television program, said digital video recorder comprising:

a video processor capable of receiving an incoming television program and converting said incoming television program to a baseband video signal capable of being displayed on a television set coupled to said digital video recorder;

a storage disk capable of storing said incoming television program; and

an apparatus for implementing special mode playback operations, the apparatus comprising an Intra frame indexing device capable of receiving an incoming MPEG video stream and identifying therein data packets associated with Intra frames, wherein said Intra frame indexing device modifies header information in a first data packet associated with a first Intra frame to include location information identifying a storage address on said storage disk of a second data packet associated with a second Intra frame.

8. (Original) The digital video recorder as set forth in Claim 7 wherein said second Intra frame chronologically precedes said first Intra frame.

9. (Original) The digital video recorder as set forth in Claim 7 wherein said second Intra frame chronologically follows said first Intra frame.

10. (Original) The digital video recorder as set forth in Claim 7 wherein said location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.

11. (Previously Presented) The digital video recorder as set forth in Claim 10 wherein said video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.

12. (Previously Presented) The digital video recorder as set forth in Claim 10 wherein said video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.

13. (Original) A method of indexing Intra frames in an MPEG video stream to enable special mode playback operations in a digital video recorder, the method comprising the steps of:
receiving the MPEG video stream;
identifying in the received MPEG video stream data packets associated with Intra frames;
and

modifying header information in a first data packet associated with a first Intra frame to include location information identifying a storage address of a second data packet associated with a second Intra frame.

14. (Original) The method as set forth in Claim 13 wherein said second Intra frame chronologically precedes said first Intra frame.

15. (Original) The method as set forth in Claim 13 wherein said second Intra frame chronologically follows said first Intra frame.

16. (Original) The method as set forth in Claim 13 wherein said location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.

17. (Original) The method as set forth in Claim 16 wherein said video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.

18. (Previously Presented) The method as set forth in Claim 16 wherein said video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.

19. (Previously Presented) A recorded video product embodied in a computer readable storage medium, said recorded video product comprising:

a plurality of data packets stored on said computer readable storage medium, said plurality of data packets comprising a first data packet associated with a first Intra frame, wherein said first data packet comprises a packet header comprising location information identifying a location in the plurality of data packets of a second data packet associated with a second Intra frame.

20. (Previously Presented) The recorded video product as set forth in Claim 19 wherein said second Intra frame chronologically precedes said first Intra frame.

21. (Previously Presented) The recorded video product as set forth in Claim 19 wherein said second Intra frame chronologically follows said first Intra frame.

22. (Previously Presented) The recorded video product as set forth in Claim 19 wherein said location information comprises sequence information identifying a location of a video frame sequence containing said second Intra frame.

23. (Previously Presented) The recorded video product as set forth in Claim 22 wherein said video frame sequence containing said second Intra frame chronologically precedes a video frame sequence containing said first Intra frame.

24. (Previously Presented) The recorded video product as set forth in Claim 22 wherein said video frame sequence containing said second Intra frame chronologically follows a video frame sequence containing said first Intra frame.

DOCKET NO. 01-S-017 (STMI01-00017)
Customer No. 30425

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Semir S. Haddad

Serial No.:

09/943,815

Filed:

August 31, 2001

For:

APPARATUS AND METHOD FOR INDEXING MPEG
VIDEO DATA TO PERFORM SPECIAL MODE
PLAYBACK IN A DIGITAL VIDEO RECORDER AND
INDEXED SIGNAL ASSOCIATED THEREWITH

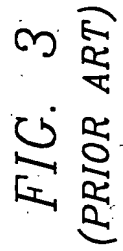
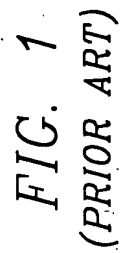
Group No.:

2665

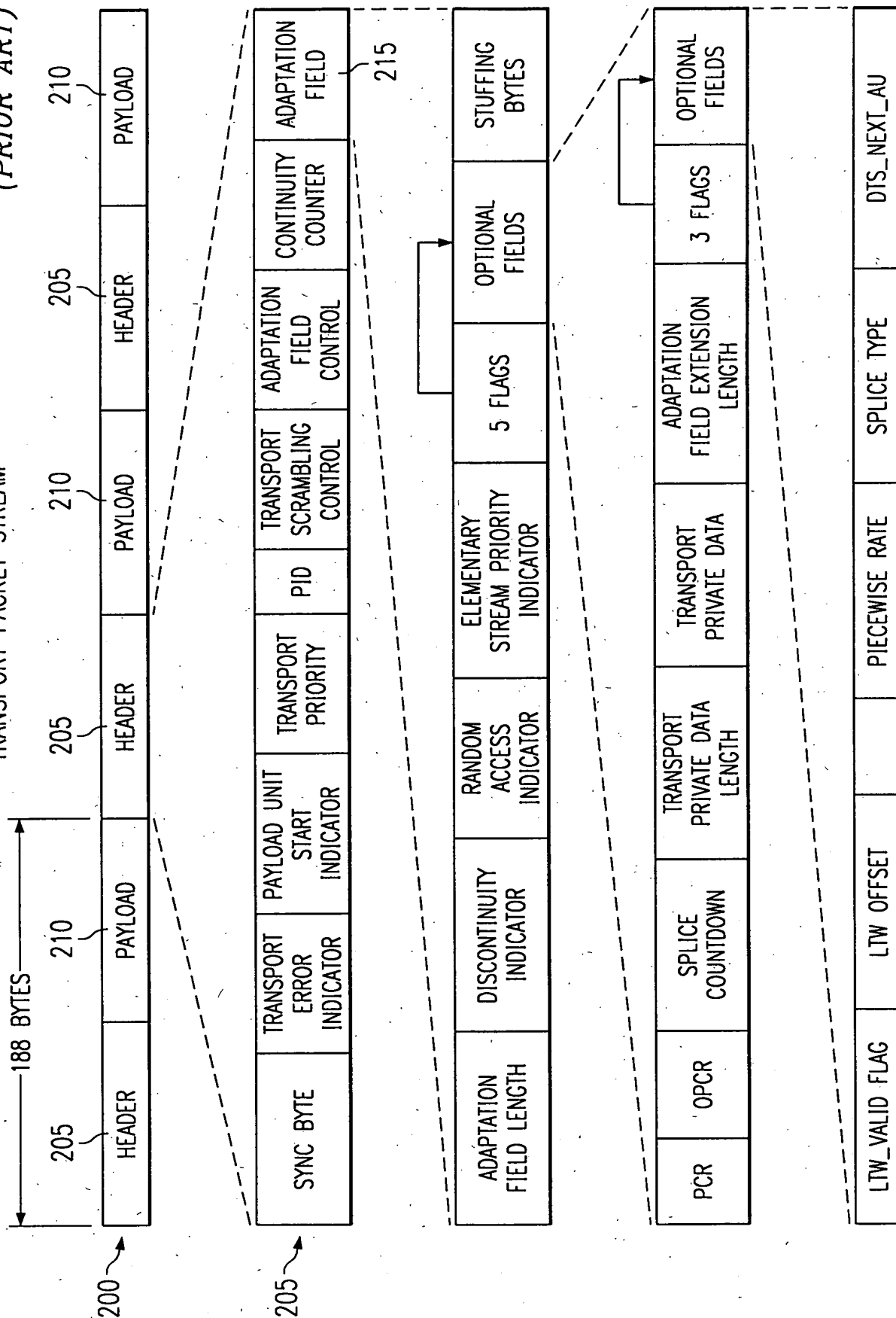
Examiner:

Cynthia L. Davis

APPENDIX B -
Copy of Formal Drawings



TRANSPORT PACKET STREAM



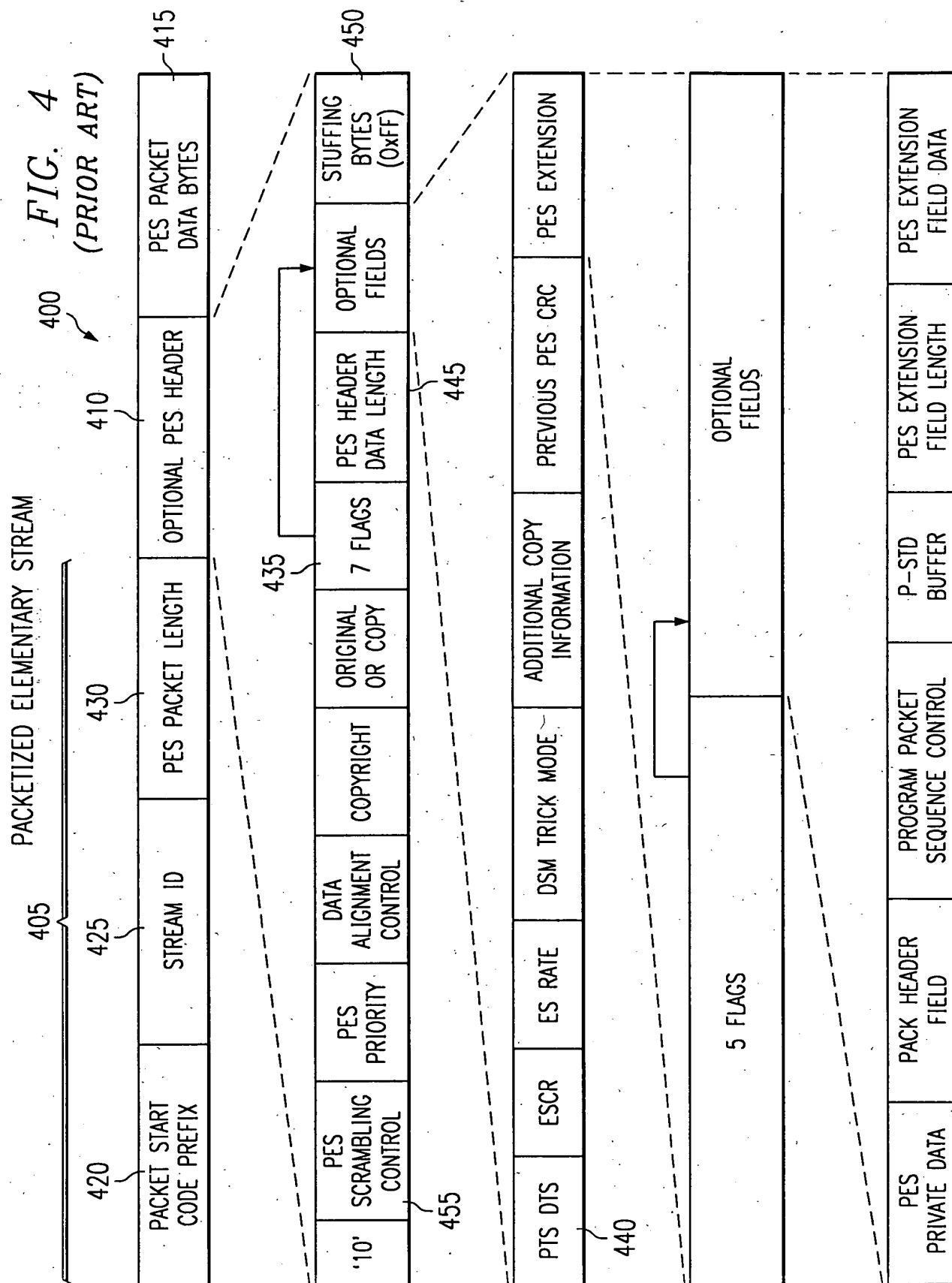


FIG. 5
(PRIOR ART)

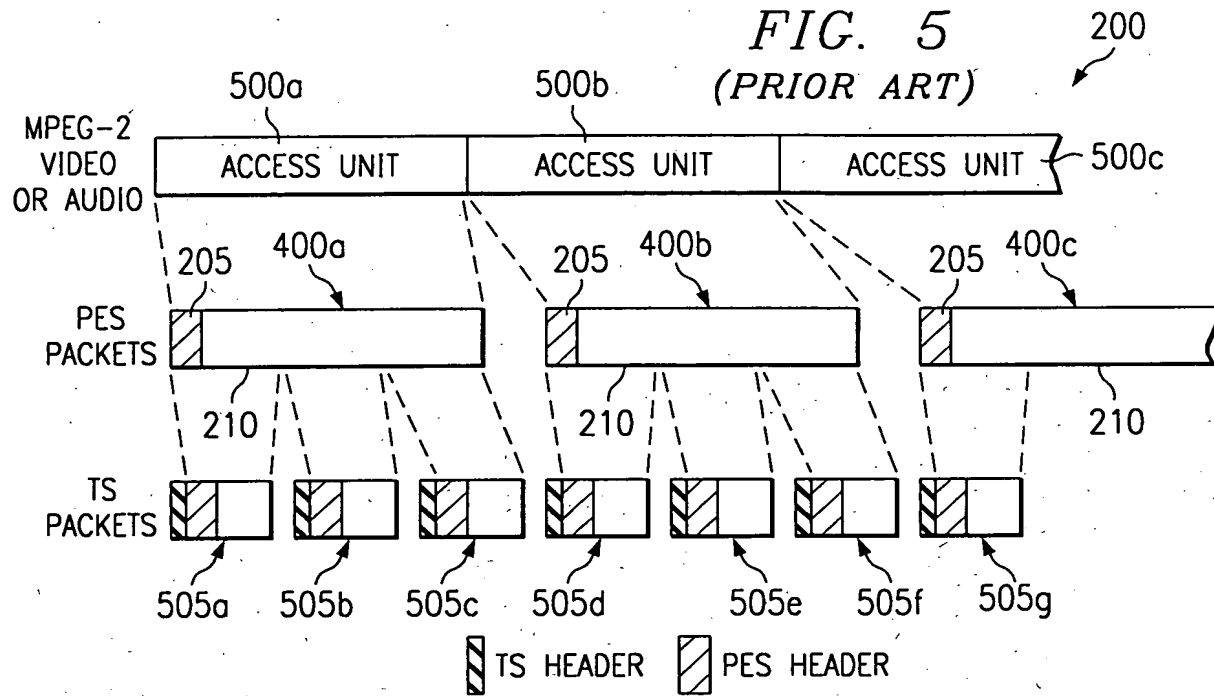


FIG. 6

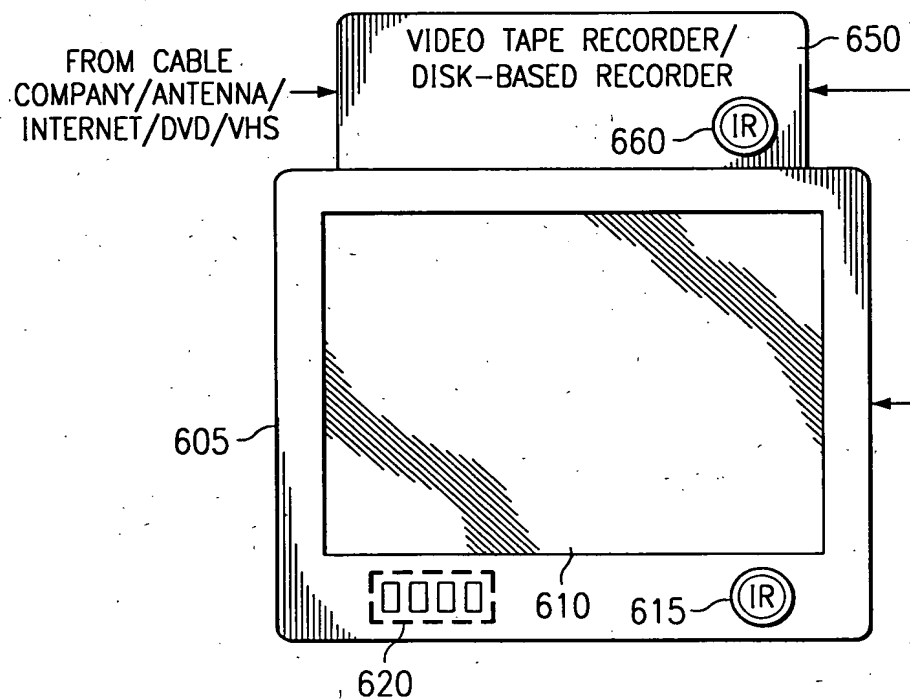


FIG. 7

5/5

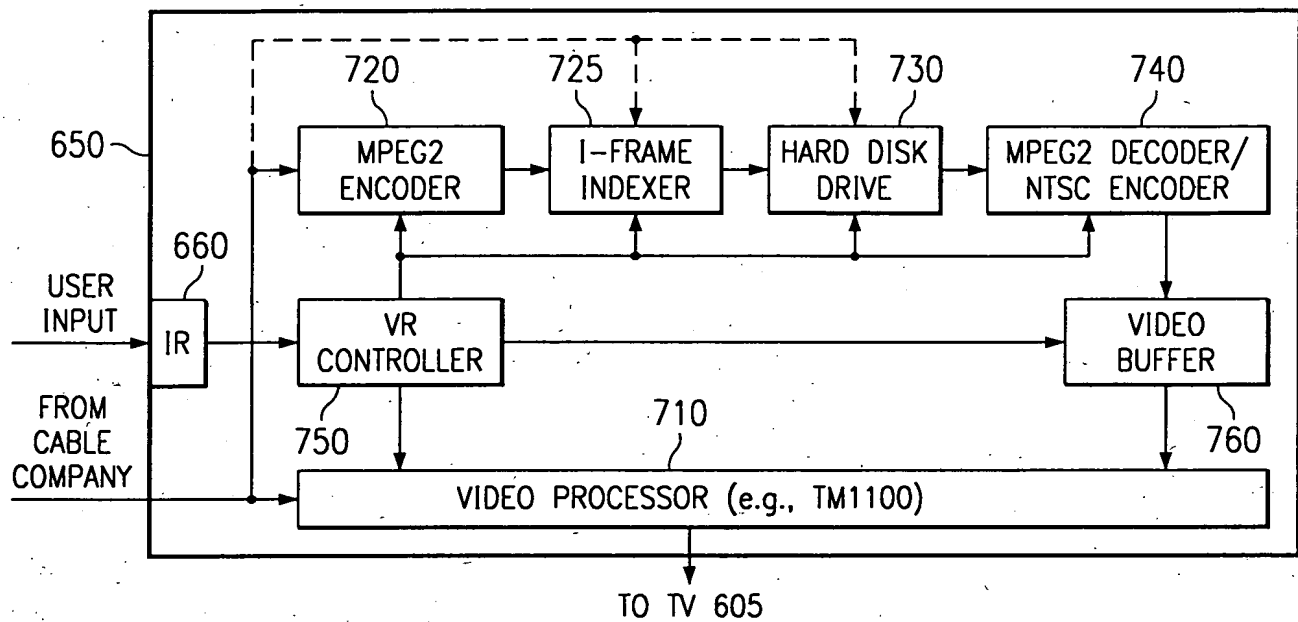


FIG. 8

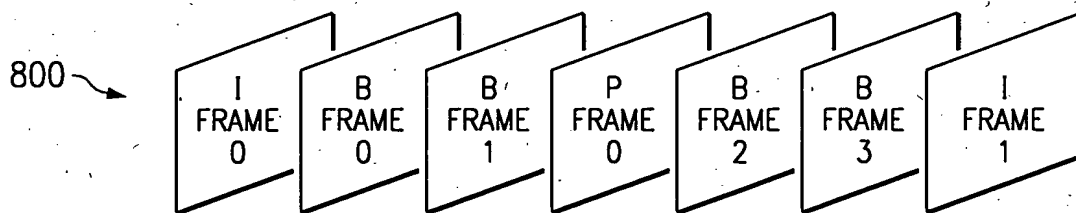


FIG. 9

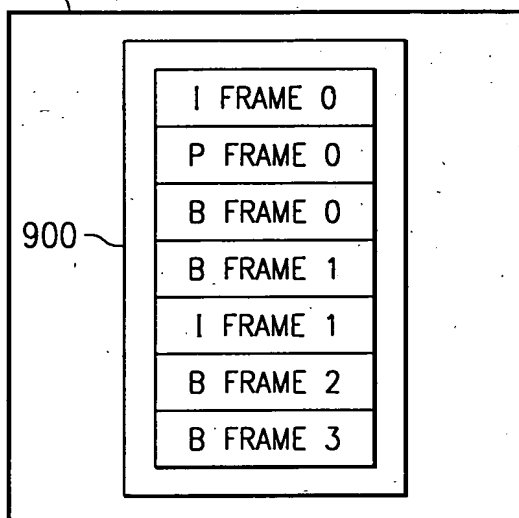
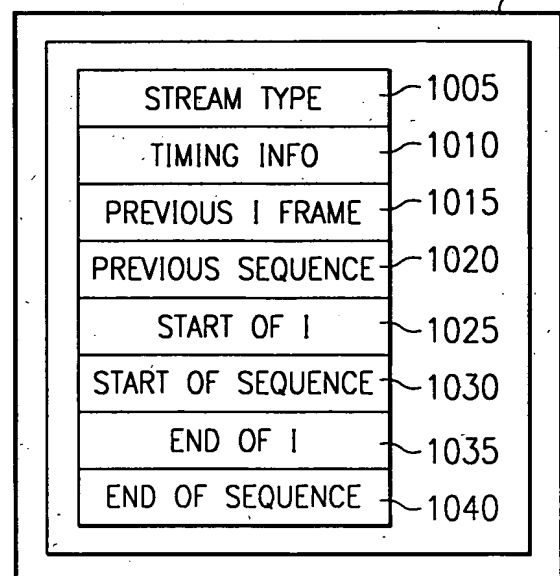


FIG. 10



DOCKET NO. 01-S-017 (STMI01-00017)
Customer No. 30425

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Semir S. Haddad

Serial No.: 09/943,815

Filed: August 31, 2001

For: APPARATUS AND METHOD FOR INDEXING MPEG
VIDEO DATA TO PERFORM SPECIAL MODE
PLAYBACK IN A DIGITAL VIDEO RECORDER AND
INDEXED SIGNAL ASSOCIATED THEREWITH

Group No.: 2665

Examiner: Cynthia L. Davis



APPENDIX C -
Evidence Appendix

None.

DOCKET NO. 01-S-017 (STMI01-00017)
Customer No. 30425

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Semir S. Haddad

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INDEXED SIGNAL ASSOCIATED THEREWITH

Group No.: 2665

Examiner: Cynthia L. Davis

APPENDIX D -
Related Proceedings Appendix

Not Applicable – To the best knowledge and belief of the undersigned attorney, there are none.



AEJ
JFW

PTO/SB/17 (12-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL For FY 2006		Complete if Known		
		Application Number	09/943,815	
		Filing Date	August 31, 2001	
		First Named Inventor	Semir S. Haddad	
		Examiner Name	Cynthia L. Davis	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Art Unit	2665	
TOTAL AMOUNT OF PAYMENT (\$)		500.00	Attorney Docket No.	01-S-017 (STMI01-00017)

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 50-0208 Deposit Account Name: Davis Munck, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP = _____ x _____ = _____						
HP = highest number of total claims paid for, if greater than 20						
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)			
- 3 or HP = _____ x _____ = _____						
HP = highest number of independent claims paid for, if greater than 3						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____				

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Appeal Brief

500.00

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	39,308
Name (Print/Type)	William A. Munck	Telephone	972-628-3600
		Date	Jan 20, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DOCKET NO. 01-S-017 (STMI01-00017)
Customer No. 30425

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Semir S. Haddad
Serial No. : 09/943,815
Filed : August 31, 2001
For : APPARATUS AND METHOD FOR INDEXING MPEG VIDEO
DATA TO PERFORM SPECIAL MODE PLAYBACK IN A
DIGITAL VIDEO RECORDER AND INDEXED SIGNAL
ASSOCIATED THEREWITH
Group No. : 2665
Examiner : Cynthia L. Davis

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

Sir:

The undersigned hereby certifies that the following documents:

1. Appeal Brief;
2. Fee Transmittal FY 2006 (in duplicate);
3. Check in the amount of \$500.00 for the Appeal Brief filing fee; and
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relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to Mail Stop Appeal Brief - Patent, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 1/20/06, 2006.

Date: 1/20/06

Kathy Ceder
Mailer

Date: Jan. 20, 2006

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